


<b>TITLE:</b> <p style="text-align: center;"><b>APPLICATION TO SUBDIVIDE  1430 – 7<sup>TH</sup> STREET  (LOTS 1/4, SLY 10FT LOT 5, BLOCK 2, PLAN 7 BLTO)  OWNER &amp; APPLICANT: RICHARD &amp; BRENDA PETERS</b></p>						
<b>PRESENTER:</b> Steve McMillan	<b>AGENDA NO:</b>					
<b>DEPARTMENT:</b> Planning & Building Department	<b>DATE:</b> May 13, 2010					
<b>CLEARANCES:</b> <i>Original Signed By</i> <i>A. Veilleux</i> Senior Planner	<b>ATTACHMENTS:</b> 1. Report (# of pages = 2 ) 2. Application related documents (# of pages = 10 ) 3. Maps (# of pages = 3 ) 4. Development Agreement (# of pages = 7)					
<b>APPROVALS:</b>  <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> <i>Original Signed By</i>  <u>          T. E. Snure          </u>  General Manager of  Development Services </td> <td style="width: 20%; border: none; text-align: center;"> <u>          May 13, 2010          </u>  Date </td> <td style="width: 50%; border: none;"> <i>Original Signed By</i>  <u>          B. MacRae          </u>  City Manager </td> <td style="width: 20%; border: none; text-align: center;"> <u>          17/05/10          </u>  Date </td> </tr> </table>			<i>Original Signed By</i> <u>          T. E. Snure          </u> General Manager of Development Services	<u>          May 13, 2010          </u> Date	<i>Original Signed By</i> <u>          B. MacRae          </u> City Manager	<u>          17/05/10          </u> Date
<i>Original Signed By</i> <u>          T. E. Snure          </u> General Manager of Development Services	<u>          May 13, 2010          </u> Date	<i>Original Signed By</i> <u>          B. MacRae          </u> City Manager	<u>          17/05/10          </u> Date			

**DISCUSSION:**

Richard and Brenda Peters are applying to subdivide 1430 – 7<sup>th</sup> Street (Lots 1/4, Sly 10ft Lot 5, Block 2, Plan 7 BLTO) for future residential development.

**Development Plan & Zoning**

The property is designated “Residential” as indicated on Urban Land Use Map One within the Brandon & Area Planning District Development Plan By-law #78/01/04. The property is zoned “RLD” Residential Low Density Multiple Family in the City of Brandon Zoning By-law 6642, as amended. The subdivision conforms to both by-laws.

**Neighbourhood Information**

The surrounding neighbourhood is predominately zoned RLD for a two block radius to the north, east and west. Across Richmond Avenue to the south there are a couple of properties zoned RMD Residential Moderate Density Multiple Family consisting of apartment units with the remainder to the area being zoned RSF Residential Single Family.

The property at 1430-7<sup>th</sup> Street is an approximately 109’ by 120’ lot. The owner is proposing to subdivide out a 40’ wide lot that would include the existing dwelling. The residual lot would be approximately 69’ wide and would include a 840sq’ garage/shop. The movable shed, garage and terrace as shown on the surveyor’s building certificate dated March 11, 2010, will all be relocated or removed.

The owner is unsure at this time if a single family dwelling or a multiple family dwelling will be developed on the newly subdivided lot. Under the City of Brandon Zoning By-law 6642, as amended, the property would be able to have up to 3 dwelling units.

## **COMMENTS:**

The **Engineering Department** is requiring a development agreement be included as part of the subdivision approval. Contained in the agreement will be the requirement that any new build shall include a plan and profile of the proposed building and will need approval from the General Manager of Development Services prior to applying for a building permit. If the property is used for a single family dwelling then these conditions would not be applicable.

**Manitoba Hydro and Centra Gas Manitoba Inc.** has indicated that easement will be required as a condition of subdivision approval. The applicant will be required to provide a sketch from a surveyor showing the exact location of Manitoba Hydro facilities on the subject property.

The **Senior Building Inspector** has indicated that with the proposed property line to be located 0.6m from the existing garage on the property that no openings are allowed on that side of the building(i.e. windows or doors). The current garage has both a window and a door that will be required to be removed to provide the proper fire separation.

**MTS & Westman Communication Group** both has no concerns with the application. Any removal or relocation of existing facilities will be at the owners' expense.

**Local Government, Community Planning Services Branch** has indicated that they have no apparent concerns with this proposal.

The **Planning Department** has no concerns will the subdivision if a single family dwelling is to be constructed on the new lot. With the possibility that a multiple family dwelling with up to three units could be developed on this property, we are asking that some restrictions be put within the development agreement. For a multiple family dwelling to be developed on the property the owner must provide elevation drawings for the General Manager of Development Services approval, provide a financial contribution for the future upgrade of 7<sup>th</sup> Street, and hardsurface the rear lane for the total length of the property as well as hardsurfacing all onsite required parking spaces. Also no matter what is developed on the property, the owner will have to pay a one time financial contribution for parks & recreation purposes as per the Planning Act. With these conditions contained in the development agreement, which will be registered against the property title, the Planning Department is confident that any development on the property will have the neighbourhood's best interests in mind.

## **RECOMMENDATION:**

That the application of Richard and Brenda Peters, to subdivide 1430 – 7<sup>th</sup> Street (Lots 1/4, Sly 10ft Lot 5, Block 2, Plan 7 BLTO) be approved subject to the applicant/owner:

- 1) executing a development agreement with the City of Brandon;
- 2) providing written confirmation that arrangements have been made for easements to the satisfaction of Manitoba Hydro;
- 3) obtaining all necessary building permits for alterations to the shop/garage so that it conforms with the Manitoba Building Code as it pertains to fire separations; and
- 4) obtaining all necessary building permits for demolition/relocation/removal of any accessory buildings or structures.



# CITY OF BRANDON PLANNING & BUILDING DEPARTMENT

421 - 9<sup>th</sup> Street • Brandon, Manitoba • R7A 4A9  
Telephone (204) 729-2110 • Fax (204) 728-2406

## Application for Approval of Subdivision Under The Planning Act

Please complete this form and return to the City of Brandon Planning and Building Department. For information about subdividing land, please refer to "A Guide to the Subdivision Process" and the Manitoba Subdivision Regulations. Copies are available without charge from the Provincial Planning Offices.

### 1. Registered Owner(s)

Name(s): Richard and Brenda Peters

Address: Box 175 Boissevain R0K 0E0  
Street Address City Postal Code

Home Phone: 204-534-6746 Cell Phone: 204-534-7832 Work Phone: \_\_\_\_\_

E-Mail: twinbluff04@yahoo.ca

### 2. Applicant (person who is filing the application and to whom correspondence should be addressed)

Are you the registered owner?  Yes (go to question 3)  No (fill in the following)

Name(s): \_\_\_\_\_

Address: \_\_\_\_\_  
Street Address City Postal Code

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Attention: \_\_\_\_\_ Your File No.: \_\_\_\_\_

I/We the registered owner(s) of the subject land, hereby designate the above named applicant to prepare and submit this application on my/our behalf.

Signature of registered Owner(s): [Handwritten Signature]

(if applicant is other than owner) \_\_\_\_\_

The personal information which you are providing is being collected under the authority of The Planning Act and will be used for the purpose of approving this application. Information is also being collected for the purpose of statistical reporting. It is protected by the Protection of Privacy provisions of The Freedom of Information and Protection of Privacy Act. If you have any questions about the collection and/or use of information, contact Jennifer Houlihan, FIPPA Coordinator, City of Brandon Planning and Building Department, 421 - 9<sup>th</sup> Street, Brandon, Manitoba R7A 4A9, Telephone (204) 729-2116.

**FOR PLANNING OFFICE USE ONLY:**  
Community Planner: STEVE WYMAN Date Received: MARCH 19/2010  
Planning File No.: 4500-10-469 Receipt No.: 46479 Amount Received: \$ 425.00  
1a Brandon - Subdivision - Application

3. **Location & General Description of Land to be Subdivided**

Name of Municipality and/or Community: CITY OF BRANDON

Street Address (if any): 1430-7th Street

Lot/Parcel No.: 1/4 Block No.: 2 Plan No.: 7

Part of the:  North-west  North-east  South-west  South-east

Section: 14 Township 10 Range 19

4. **Sketch Map**

Draw a sketch map of your proposed subdivision to scale. Include on your map the information and features listed below:

- a. Show all lands described in the certificate(s) of title and all proposed parcels and lots. **Clearly indicate which parcel(s) you are proposing to transfer, and show all existing and proposed dimensions and distances;**
- b. Show all existing and proposed structures and features on the lands described in the immediate vicinity, including: buildings, roads, hydro/telephone lines (including poles and towers), railways, pipelines, lakes, rivers, creeks, ditches, swamps, low areas, drainage patterns, wooded areas, ridges, gravel pits, quarries, livestock/poultry operations, air strips, waste disposal grounds, sewage lagoons, tanks, wells, septic fields, sewage ejectors, driveway connections, etc., and
- c. Indicate uses of all lands shown on your map.

**If your proposal is for 3 lots or more, contact the Brandon and Area Planning District office to determine what additional information may be required.**

5. **Land Use** (check appropriate boxes and describe as indicated)

a. What are the lands described in the subject certificate(s) of title presently used for?

- Agricultural     Commercial     Residential     Industrial     Seasonal (Cottage)  
 Other: \_\_\_\_\_

Describe present use in more detail: \_\_\_\_\_

b. Are there any existing buildings on the lands described in the certificate(s) of title?

- Yes     No    **Please indicate the general location and use of all buildings on your map.**

5. Land Use (continued)

c. What is the intended use of the lot(s) or parcel(s) to be subdivided?

- Agricultural   
  Commercial   
  Residential   
  Industrial   
  Seasonal (Cottage)  
 Other: \_\_\_\_\_

Describe intended use in more detail: \_\_\_\_\_  
 \_\_\_\_\_

d. What is the physical nature of the lot(s) or parcel(s) to be subdivided?

- Wooded/Treed   
  Cultivated   
  Pasture   
  Hilly   
  Level/Flat  
 Low/Swampy   
  Adjacent to Shoreline of River/Lake/Creek  
 Other: \_\_\_\_\_

Describe physical nature in more detail: \_\_\_\_\_  
 \_\_\_\_\_

e. Indicate if any of the following are located within 1/2 mile (805m) of the parcel(s) to be subdivided:

- Livestock/Poultry Operation   
  Waste Disposal Ground (in use or abandoned)  
 Sewage Lagoon   
  Airport   
  Historic Site or Structure   
  Gravel Pit or Quarry

If any of these uses are within 1/2 mile, indicate direction and approximate distance, type and size of operation (if known): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

6. Services (check appropriate boxes and describe as indicated)

a. Sewage Disposal:

- Present:   
  Municipal Sewer   
  Holding Tank   
  Septic Field   
  Other  
 Proposed:   
  Municipal Sewer   
  Holding Tank   
  Septic Field   
  Other

b. Water Supply:

- Present:   
  Piped Water   
  Community Well   
  Individual Well   
  Other  
 Proposed:   
  Piped Water   
  Community Well   
  Individual Well   
  Other

c. Roads:

- Is there an existing driveway to the proposed lot(s) or parcel(s)?   
  Yes   
  No  
 Is there an existing driveway to the parcel to be retained?   
  Yes   
  No

Indicate if you propose to build a new driveway connection onto any of the following:

- Provincial Trunk Highway   
  Provincial Road   
  Municipal Road   
  City Street   
  N/A

6. Services (continued)

d. Drainage:

How will the proposed lot(s) or parcel(s) be drained?

- Natural
- Ditches
- Curb & Gutter
- Storm Sewer

Do you propose to discharge surface water into a provincial highway ditch; a provincial waterway; a municipal ditch or a municipal waterway?  Yes  No

Has any part of these lands ever been flooded? (if known)  Yes  No

If yes, describe \_\_\_\_\_

Please show drainage patterns on your map.

7. Reason for Application and Other Comments

Indicate the reason(s) for making this application, and provide any other information or comments you believe relevant. Attach extra sheets if more space is required.

SEE LETTER OF INTENT

8. Other Requirements

- a. An application fee of \$425.00 is required to complete this application. There is **NO GST** applicable to this application. Please make cheques payable to the **CITY OF BRANDON**.
- b. Letter of Intent stating what you propose to do, where you propose to do it, and any details that will create a clear picture of the proposed changes.
- c. A Land Titles photocopy (**currently dated**) of the certificate(s) of title, with photocopies of any certificates transferred out; or, deed and a copy of the abstract; or, photocopy of duplicate title or status of title (electronic title), currently dated; and photocopies of any restrictive covenant, mineral reservation, easement, right-of-way, or caveat affecting the land is required to complete this application.
- d. You may be required to provide additional information such as: a surveyor's building location certificate, topographical, drainage, soils, water table, flood level, bank stability, geological and/or other engineering information, or other information which the approving authority may require to reach an informed decision in accordance with The Planning Act, Subdivision Regulations, and local By-Laws which may be in effect in your area.

**\*\*Application will not be processed until all of the above information has been submitted\*\***

9. Applicant's Signature

I CERTIFY that the information provided on this form and attached hereto is full and complete and is, to the best of my knowledge, a true statement of the facts concerning this proposed subdivision.

Signature [Handwritten Signature] Date Mar. 4 / 2010  
(signature of registered owner, or applicant if other than owner)

March 18, 2010

Brandon and Area Planning District  
421 9<sup>th</sup> Street,  
Brandon, MB, R7A 4A9

Letter of Intent

To whom it may concern:

As the owners of 1430 7<sup>th</sup> Street in Brandon, we are looking to subdivide this property. We are proposing to subdivide the small garage and house on the north side from the shop and larger property on the south side.

Civic Address and Legal Description:

Lots 1-4 both inclusive and the sly 10 feet lot 5  
Block 2 Plan 7 BLTO  
In SE ¼ 14-10-19 WPM

The reasons for our proposal are that we feel Brandon is in need of more residential housing and by subdividing we can provide additional housing. By subdividing, we will have a large lot with room for additional housing. At this point, we are exploring whether it will be a single family or multi family dwelling. By completing this application for subdivision, we are also looking to add value to this property.

To our knowledge there are no environmental concerns with the property.

The neighboring uses in the area are residential and so our proposal fits the neighborhood.

There will be outdoor storage associated with this application in the form of the existing shop at the west end of the south property.

The property currently has fencing on the east, south and west sides and partially on the north side.

Thank you for considering our application for subdivision.

Richard and Brenda Peters

P.O. Box 175  
Boissevain, MB  
R0K 0E0  
(204) 534-6746

# Surveyor's Building Location Certificate



Prairie Benchmark  
Land Surveys  
Suite 3, 20-18<sup>th</sup> Street  
Brandon, Manitoba  
R7A 5A3

Gary R. Pawluk M.L.S

Page 1 of 2

**Prepared For:**

Richard Peters  
P.O. Box 175  
Boissevain, Manitoba  
R0K 0E0

**Civic Address:**

1430 - 7<sup>th</sup> Street  
Brandon, Manitoba

**Registered Owners:**

Richard David Peters and Brenda Joan Peters

**Title No.:**

2418933 Brandon Land Titles Office

**Legal Descriptions:**

Lots 1 to 4 both inclusive and the Sly 10 feet of Lot 5 Block 2 Plan 7 BLTO  
In SE ¼ 14-10-19 WPM

**Encumbrances:**

Mortgage No. 1255611 is registered against the above-mentioned title.  
(Encumbrances noted hereon are provided for information purposes only and have not been investigated as to their intent or extent.)

**This is to certify:**

That I have made the necessary measurements to determine the position of a one-story house numbered 1430 with attached terrace, including one garage, shop and 2 moveable sheds as appurtenant to the above-described land. Said buildings are situated on the west side of 7<sup>th</sup> Street in the city of Brandon, Manitoba, and find that the same, above ground level, are contained entirely within the limits of the above described land.

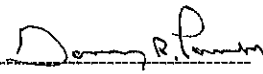
There are no encroachments above ground level onto the above-described land by buildings from adjoining properties.


**Refer to sketch shown on page 2**

Title research and fieldwork were completed on March 8<sup>th</sup>, 2010.

Please note that survey monuments were not requested to be installed at property corners.

Signed, Sealed and Dated this 11<sup>th</sup> day of March 2010.

  
Gary R. Pawluk  
Manitoba Land Surveyor

CERTIFIED A TRUE COPY  
DATED 11/03/2010  
 M.L.S.

File No. 10-038

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Andrew Mok/City of  
Brandon/CA  
04/28/2010 11:10 AM

To Nick Malazdrewicz/City of Brandon/CA@City of Brandon  
cc Steve McMillan/City of Brandon/CA@City of Brandon  
bcc  
Fax to  
Subject Fw: 1430 - 7th Street - Subdivision Application

FYI, to file.

Andrew Mok, BES  
Community Planner  
City of Brandon  
Planning Department  
421 9th Street  
Brandon, MB R7A 4A9

Phone: (204) 729-2115

Fax: (204) 728-2406

E-mail: a.mok@brandon.ca

----- Forwarded by Andrew Mok/City of Brandon/CA on 04/28/2010 11:08 AM -----



Patty Johnson/City of  
Brandon/CA  
04/28/2010 10:57 AM

To Andrew Mok/City of Brandon/CA@City of Brandon  
cc  
Fax to  
Subject 1430 - 7th Street - Subdivision Application

The Engineering Dept requires that a Development Agreement be a condition of subdivision.

Contained in the agreement will be the requirement that any new build shall include a plan and profile of the proposed building and will need approval from the GM of Dev. Services prior to applying for a building permit. This requirement is to ensure that the new build will blend in with the existing neighborhood.

thanks,

Patty Johnson  
Development Officer  
City of Brandon  
ph 729-2218  
cell 573-9145  
fax 725-3235



"Subdivision Circulars"  
<SubdivisionCirculars@hydro  
.mb.ca>

04/07/2010 11:39 AM

To <n.malazdrewicz@brandon.ca>, "PROPERTY  
ACQUISITION" <propacq@mtsallstream.com>,  
<engineering@westmancom.com>

cc

bcc

Fax to

Subject 4500-10-469- E-mail to Planning- lots 1/4 sly 10ft lot 5 block  
2 plan 7 City of Brandon

## Manitoba Hydro

P.O. Box 815 • Winnipeg Manitoba Canada • R3C 2P4

Fax / N° de télécopieur: (204) 453-6236

[SubdivisionCirculars@hydro.mb.ca](mailto:SubdivisionCirculars@hydro.mb.ca)

RE: Application(s)

Manitoba Hydro will require easements for existing facilities with respect to the above noted subdivision application file no 4500-10-469.

Centra Gas Manitoba Inc. will require easements for future development with respect to the above noted subdivision application file no 4500-10-469. At this time Centra Gas Manitoba Inc. is unable to determine where our existing facilities are located in relation to the proposed new lot(s). We will require the landowners surveyor to prepare a sketch showing the exact location of all **Manitoba Hydro facilities** on the subject property.

We would appreciate it if all applicants are provided with the following information Any removal or relocation of Manitoba Hydro and/or Centra Gas Manitoba Inc existing facilities as a result of the proposed subdivision will be at the expense of the developer and/or customer. As a result of this application, a survey or plan may be required. This will be the responsibility and at the expense of the landowner/applicant.

Should you require any future electrical and or gas service it can be obtained from the local Manitoba Hydro District Office

Thank you,

Charlene Gislason  
*Subdivision Circulars*  
Property Department  
360-4399  
[cegislason@hydro.mb.ca](mailto:cegislason@hydro.mb.ca)

MAR/29/10

1430 7th St

S.D. APP 4500-10-469

As I understand - the terrace will be removed to comply with zoning (2ft back from the new property line) - the small bldg currently located over the new property line will be removed.

The bldg noted on the survey as a ~~g~~ shop is really a garage and will be used as such. Based on our conversation, the new property is set so that the eave and ~~garage~~ ~~drill~~ eave trough will be located 1ft away. This would make the bldg more than 2ft away and as a garage for a single "family dwelling", it would meet MBC if it is more than 2ft away.

The issues that arise are

- ① There are no openings permitted in a garage wall for a S.F.D. that are within 1.2m's of the property. I believe there is both a window and door in north wall of the shop/garage.
- ② The two<sup>th</sup> clearance<sup>to</sup> a property line is for a detached garage or accessory bldg serving only a single dwelling unit.



Local Government

Community Planning Services Branch  
P.O. Box 22147 2022 Currie Boulevard  
Brandon, Manitoba, Canada R7A-6Y9  
T 204-726-6267 F 204-726-6290

March 26, 2010

**Your File No. 4500-10-469**

Mr. Nicholas Malazdrewicz,  
Planning Technician  
Brandon and Area Planning District  
421-9<sup>th</sup> Street  
Brandon, Mb. R7A 4A9

Dear Sir:

**RE: PROPOSAL TO SUBDIVIDE Lots 1-4 and Pt. Lot 5 Blk. 2, Plan 7 BLTO  
CITY OF BRANDON (Richard and Brenda Peters)**

In response to your circulation of March 24, 2010 we have reviewed the proposal to subdivide this parcel into 2 lots for the purpose of creating one additional residential building lot.

Our Department has no apparent concerns with this proposal, provided that suitable arrangements are made for easements for utilities on both lots. Based on the building location certificate provided in the package you circulated, it appears a portion of a terrace attached to the existing dwelling which will be located in the proposed northerly lot as well as a small portion of a shed on this same proposed lot are encroaching onto the proposed southerly lot. Our office recommends that Council consider approval of the subdivision subject to a condition requiring the owner doing one of the following 1) remove said encroachments, or 2) have said encroachments registered by caveat on title of each lot and apply to Council for variations reducing the required side yard to zero. Further, our office recommends that all lands contained in each proposed lot be consolidated on the title.

Thank you for bringing this proposal to our attention. I hope that these comments will be helpful.

Yours truly,

Please consider this a signed original

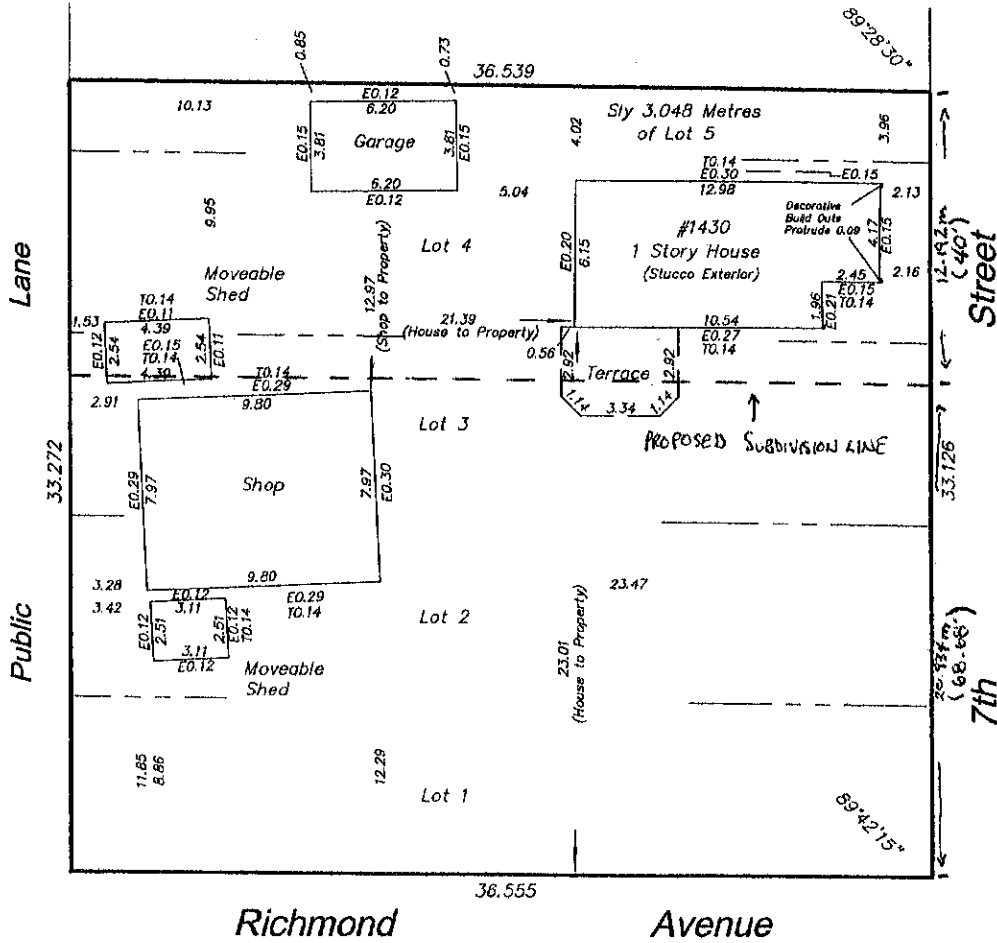
Peter Andersen  
Community Planner

# Surveyor's Building Location Certificate

Prairie Benchmark  
 Land Surveys  
 Suite 3, 20-18th Street  
 Brandon, Manitoba  
 R7A 5A3



## Block 2 Plan 7 BLTO

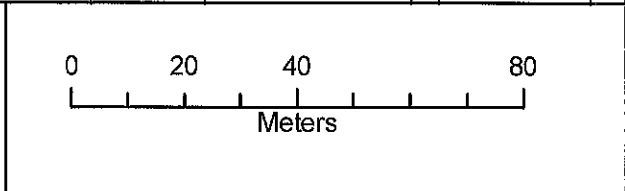


DATE OF THIS COPY  
 DATED 11/23/2010  
 \_\_\_\_\_ M.L.S.

# Subdivision Application



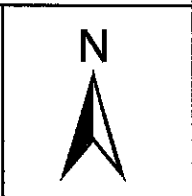
Subdivision Application 4500-10-469  
 1430 - 7th Street  
 (Lots 1/4 & Sly 10ft Lot 5, Block 2,  
 Plan 7 BLTO)



**LEGEND**

Proposed New Lot(s)  
 Residual Parcel

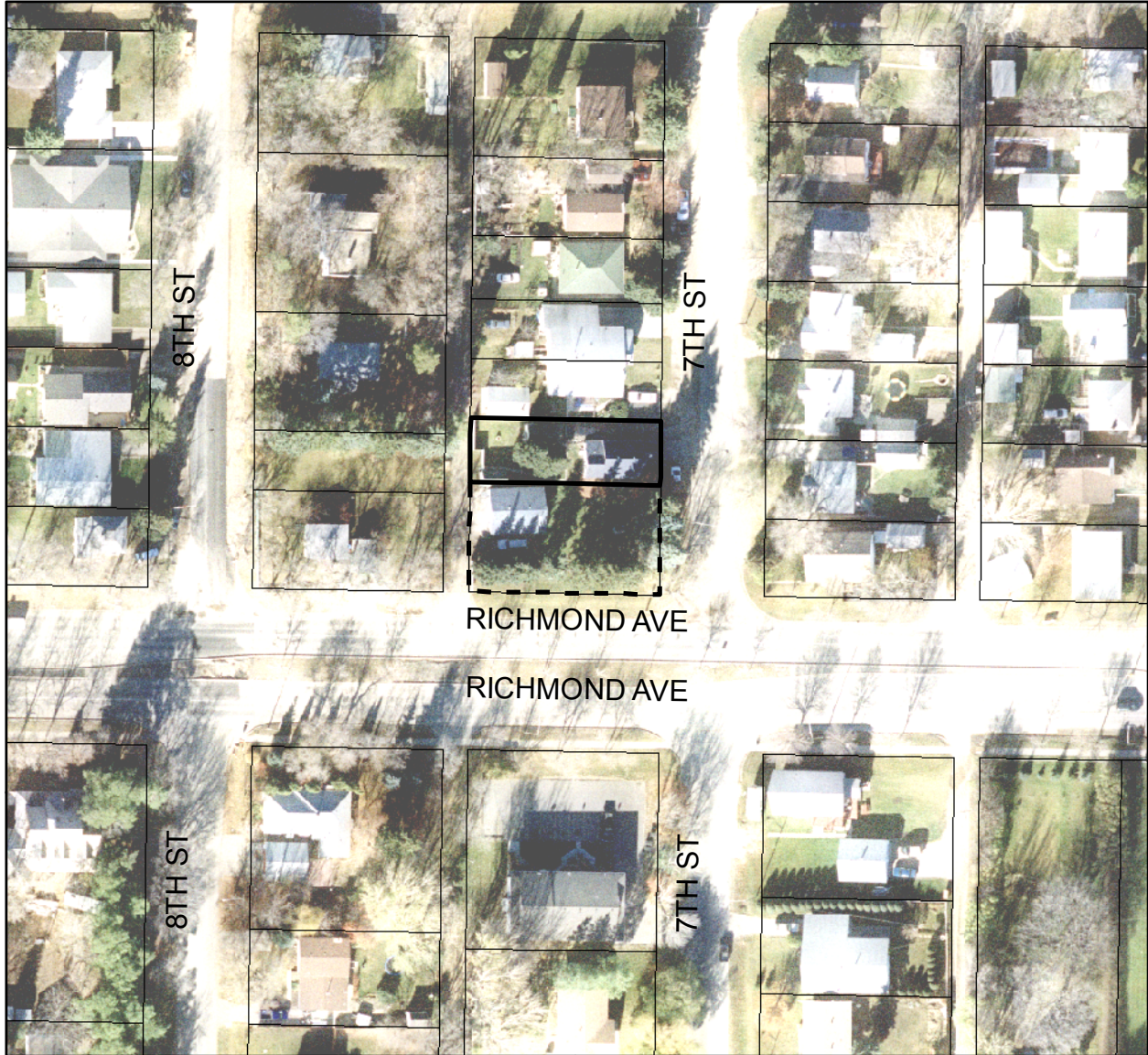
**City of Brandon  
 Department of  
 Planning & Building**



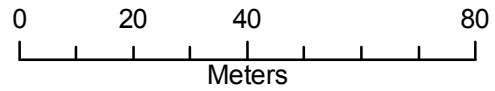
Map creation date: 03/24/10

Revised:



# Subdivision Application



Subdivision Application 4500-10-469  
 1430 - 7th Street  
 (Lots 1/4 & Sly 10ft Lot 5, Block 2,  
 Plan 7 BLTO)



## LEGEND

-  Proposed New Lot(s)
-  Residual Parcel

**City of Brandon  
 Department of  
 Planning & Building**



**City of Brandon**

Map creation date: 03/24/10

Revised:

THIS AGREEMENT made in duplicate this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 2010.

BETWEEN:

**RICHARD DAVID PETERS & BRENDA JOAN PETERS,**  
(hereinafter called the "Developers"),  
OF THE FIRST PART,

- and -

**THE CITY OF BRANDON,**  
(hereinafter called the "City"),  
OF THE SECOND PART.

WHEREAS the Developers are the owners or are entitled to be the owners of property commonly known as 1430 – 7<sup>th</sup> Street and legally described as:

Lots 1 to 4, both inclusive, and the Sly 10 feet of Lot 5  
Block 2, Plan 7 BLTO  
In SE ¼ 14-10-19 WPM

and illustrated on the attached Schedule "A" (hereinafter called the "Lands");

AND WHEREAS the Developers have made application for subdivision of the said Lands;

AND WHEREAS the City of Brandon Planning Commission will conduct a Public Hearing on the application for subdivision and will submit a report and recommendation to Brandon City Council;

AND WHEREAS the Council of the City of Brandon will consider the report and recommendation of the Planning Commission when considering the application for subdivision with a resolution of the Council of the City of Brandon required for a decision on the application;

AND WHEREAS the Brandon and Area Planning District will also be required to consider the subdivision application and to make a decision by resolution of the Brandon and Area Planning District Board;

AND WHEREAS the Developers plan to proceed with Development of the Lands in accordance with the attached concept as illustrated on the attached Schedule "B";

AND WHEREAS the Developer may wish to proceed, fully at their risk and liability, with the construction of utilities and Public Works in advance of the required approvals.

NOW THEREFORE this Agreement witnesseth that in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

1. The preamble hereof and the attached Schedules shall form an integral part of this Agreement.
2. DEFINITIONS

Where the context so implies the following definitions shall apply in the singular and the plural:

- (a) "City Engineer" shall mean the Senior Engineer employed by the City of Brandon or any person delegated to act on his behalf;
- (b) "Consulting Engineer" shall mean the firm or person employed by the Developers for the designs, drawings, specifications and supervision of the works necessary to be carried out by the Developers and the City of Brandon;

Initials
_____
_____
_____



- (c) "Municipal Above Ground Improvements" shall include all improvements installed by the Developers in or on existing or proposed municipal streets, lanes, easements, land or rights of way (hereinafter called "municipal lands") in accordance with approved plans and specifications said improvements in or on municipal lands to become the responsibility of the City, or others to own and maintain after acceptance by the City and shall include but not be limited to the following:
  - 1. construction and installation of all roads, walkways, sidewalks, retention ponds, etc. as laid out in the approved construction drawings;
  - 2. all street lighting of roadways and lane ways;
  - 3. all signing including street names, and traffic control signs as directed by the City Engineer; and
  - 4. landscaping of all publicly owned land including the planting of trees and sodding of boulevards and ditches, parkland, and public reserve land; and
  
- (d) "Municipal Underground Improvements" shall include all improvements installed by the Developers in or on existing or proposed municipal lands in accordance with approved plans and specifications said improvements in or on municipal lands to become the responsibility of the City, or others to own and maintain after acceptance by the City and shall include and not be limited to a storm water drainage system with detention pond, potable water system, waste water system, below ground electrical power, telephone and natural gas distribution systems, together with all laterals, branches, manholes, service connections, fire hydrants, valves, pedestals, culverts and usual engineering appurtenances necessary to fully service the lands, and all excavation of frost susceptible material, back fill, sub-base construction to roads and grading of right-of-ways to levels and grades acceptable to the City Engineer.

3. The Developers shall:

- a) engage a Consulting Engineer, duly licensed to practice by the Association of Professional Engineers & Geoscientists of the Province of Manitoba, for the purpose of design and project management for all aspects of construction of the Lands;
  
- b) provide a lot grading and drainage plan for the Lands, which plan shall be acceptable to the City Engineer prior to issuance of a building permit, and the Developers covenant and agree that the Lands shall be graded to, conform to, and be maintained in accordance with the said lot grading and drainage plan;
  
- c) provide a landscape plan of the Lands, which plan shall be acceptable to the City Engineer prior to issuance of a building permit, and the Developers covenant and agree the Lands shall be landscaped in accordance with the plan immediately upon the completion of the development;
  
- d) grade and level all boulevards and ditches within the subdivision including a minimum of six (6) inches of top soil and shall sod all of the said boulevards and ditches and the Developers shall plant trees of no less than five (5) years maturity on the said boulevards which trees shall be spaced and shall be of such species as shall be prescribed by the Director of Community Services but such spacing shall not be more than fifty (50) feet apart;
  
- e) provide all plans of ingress and egress to the Lands, which plans shall be acceptable to the City Engineer.
  
- f) provide all plans of Municipal Above Ground Improvements and Municipal Underground Improvements, which plans shall be acceptable to the City Engineer prior to issuance of a building permit; and

Initials
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- g) obtain from the City Engineer a certificate to state that the construction of the Municipal Above Ground Improvements and Municipal Underground Improvements as required by this Agreement for the Lands has been satisfactorily completed, and this certificate must accompany application made to the City of Brandon Planning & Building Department for a building permit.
4. The Developers acknowledge and agree that once the development has commenced, the construction and servicing of the Lands must be finalized within two (2) years. Failure to do so may in the determination of the City render this Agreement null and void, and be termed a default to this Agreement. Commencement of development shall have been deemed to start on the date shown on the Approved for Construction signature block placed by the City Engineer on the Developers' Construction Plans for Municipal Above Ground Improvements and Municipal Underground Improvements. The Developers may however, by notice in writing, request an extension of time within to complete the construction and servicing. No extension of time shall be allowed unless such written request is made by the Developers and approved by the City.
  5. From and effective on the date of written acceptance from the City Engineer for all Municipal Above Ground Improvements and Municipal Underground Improvements required pursuant to this Development Agreement, the Developers agree to and shall provide a full and comprehensive warranty for all such improvements, concerning any and all defects and failures, for a period of two (2) years. The Developers further agree to be responsible for snow clearing of the public street systems including temporary access roads on Public Right-of-Way until 25% of the dwellings proposed for development are constructed or are under construction. Failure on the part of the Developers to comply with the terms with respect to this warranty shall result in default of this Agreement and shall give rise to the City exercising its rights and remedies. In addition though, and while the warranty is to be for a period of two (2) years, the Developers agree and acknowledge that the warranty and obligations thereunder to the City shall not be released or determined satisfied until such time as a final inspection is arranged at or upon the end of the two (2) year warranty period. The onus to arrange such final inspection shall be on the Developers. The Developers shall not be released of any and all obligations pursuant to this Agreement or the warranty until such time as any defects or failures, if any, which are determined upon final inspection for completion of the warranty period, are remedied to the complete satisfaction of the City. As a result, the Developers understand and acknowledge that the warranty period can extend farther than a period of two (2) years in these circumstances, and until same is released by the City.
  6. The Developers acknowledge and agree:

A) to contribute, on a one time basis, 10% of the said Lands being subdivided pursuant to section 135(6)(b) and section 136(1) of The Planning Act. This contribution will be a combination of cash and land totaling 10% with a raw land value based on \$44,460.00 per hectare or \$18,000.00 per acre as established by the "Property Division of the City's Development Services Department". For this development the contribution is as follows:

$$\begin{array}{lcl}
 \text{a) } \underline{0.1215} \text{ hectares} & \times 10\% & = \text{b) } \underline{0.01215} \text{ hectares} \\
 \text{Total area of land being developed to date} & & \text{Total land required for public reserve} \\
 \\
 \text{b) } \underline{0.01215} \text{ hectares} & & - \text{c) } \underline{0} \text{ hectares} \\
 \text{Total land required for public reserve} & & \text{Land contributed to public reserve}
 \end{array}$$

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$$= \text{d) } \underline{0.01215} \text{ hectares} \\
 \text{Land owing to equal 10\% contribution}$$

$$\text{d) } \underline{0.01215} \text{ hectares} \quad \times \quad \underline{\$44,460.00} \\
 \text{Land owing to equal 10\% contribution} \quad \quad \quad \text{Monetary value per hectare}$$

= \$ 540.19  
Contribution for this Agreement, due upon signing of this Development Agreement

- B) that if the subdivided Lands are used for single family dwellings, then Clauses 3(a), 3(c), 3(f), 3 (g), 4, 5 and 7 are not applicable to this Agreement;
- C) that if the subdivided Lands are used for multiple family dwellings, the Developers will be required:
  - i) to design, construct, and hardsurface the parking areas and laneway bordering the entire length of said Lands (33.27 metres), including the approach to Richmond Avenue, to the approval and satisfaction of the City Engineer;
  - ii) to design the new multiple family buildings in a manner that compliments and enhances the neighbourhood, with such plans being subject to a review by the Planning Department and City Engineer for final approval;
  - iii) to contribute, on a one time basis, the amount of **\$16,635.00** to construct one half of 7<sup>th</sup> Street for the entire length bordering said Lands (33.27 metres). This construction will include but not be limited to the costs for curb, road base, paving, sod, trees and sidewalk. This contribution will be due upon application for a building permit and will be held in a reserve account for the future construction of 7<sup>th</sup> Street; and
  - iv) to abide by Clause 7 of this Agreement, with an irrevocable Letter of Credit due in the amount of \$9,000.00 and being payable at the time of application for a building permit.

7. The Developers agree to furnish security for any and all of its obligations pursuant to this Development Agreement, by means of an Irrevocable Letter of Credit for the amount of (if applicable) dollars. The issuer of the Irrevocable Letter of Credit, and the form and content thereof, shall be subject to the approval of the City. This will be a one time application and will cover the Developers for this Development Agreement entered into. City approval and building permits for the Lands will not be issued until the Irrevocable Letter of Credit is in full force and effect, the duration of which must operate continuously throughout the currency of this Development Agreement with the City, the warranty period, and until the City is agreeable to the release of this security, should there be deficiencies to remedy as a result of final inspections for purposes of the warranty. Upon final inspection and written acceptance by the City of all improvements for purposes of completing the warranty period, and once and only once any and all outstanding deficiencies as a result of inspections for the completion of the warranty period are met to the satisfaction of the City will the Irrevocable Letter of Credit be released back to the Developers and cancelled. Failure to comply with the terms of the Development Agreement shall result, at the discretion of the City, in action against the security as presented by the Developers.

8. The City and the Developers agree that there will be no waiver of rights on the part of the City should it not immediately enforce its rights and remedies pursuant to this Agreement.

9. The Developers shall obtain all necessary permits relating to the development on the Lands from the City prior to issuance of a building permit by the Brandon & Area Planning District.

10. The Developers shall be required to reference survey monuments prior to development, and confirm that these monuments have been replaced (if disturbed) in compliance with The Surveys Act when construction is completed.

Initials _____ _____ _____
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11. The Developers agree to indemnify and save harmless the City, its officers, employees and agents from and against all claims, proceedings, demands, damages, actions, judgements of any kind, including without limiting the generality of the foregoing, all damages for personal injury or death arising out of or attributable to all actions or conduct of the Developers, their employees, agents and contractors upon the development Lands including but not limited to any work or act committed or omitted by the Developers in the performance of this Agreement.
12. The City shall be entitled to register a Caveat against all of the Lands affected by this Agreement reflecting the provisions of this Agreement.
13. This Agreement shall enure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns, provided however that no assignment shall be made by the Developers unless and until such assignment has been approved in writing by the City, such approval should not or will not be unreasonably withheld.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals and/or caused their corporate seals to be affixed duly attested to by the hands of their proper signing officers in that behalf, the day and year first above written.

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
**RICHARD DAVID PETERS**

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Witness Address

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
**BRENDA JOAN PETERS**

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Witness Address

**CITY OF BRANDON**

\_\_\_\_\_  
**Ted Snure, P. Eng., CITY ENGINEER  
General Manager of Development Services**

Schedule "A"

Subdivision Application



Subdivision Application 4500-10-469 1430 - 7th Street (Lots 1/4 & Sly 10ft Lot 5, Block 2, Plan 7 BLTO)			
<b>LEGEND</b> Proposed New Lot(s) Residual Parcel		<b>City of Brandon                  Department of                  Planning &amp; Building</b>	
		Map creation date: 03/24/10 Revised:	



THIS AGREEMENT made in duplicate  
this        day of        , A.D. 2010.

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BETWEEN:

**RICHARD DAVID PETERS & BRENDA  
JOAN PETERS,**

(hereinafter called the "Developers"),  
OF THE FIRST PART,

-- and --

**THE CITY OF BRANDON,**

(hereinafter called the "City"),  
OF THE SECOND PART.

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**DEVELOPMENT AGREEMENT**

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/tm  
GK/tm

DATE: April 28, 2010  
DATE: May 3, 2010

The City of Brandon  
Engineering & Operations Department  
410 - 9th Street  
Brandon, Manitoba  
R7A 6A2

T. E. Snure, P. Eng.  
CITY ENGINEER

Telephone:        729-2214  
Fax:                725-3235

File No.: 4500-10-469